

1 represent I totally disagree with the characterizations that
2 have been made to create impressions that aren't warranted.
3 But with respect to these notes, I think the point Mr. Hardman
4 is going to make is these notes weren't produced to purport
5 anything. They were produced because they were responsive to
6 an agreement to produce documents. They weren't made with any
7 statement about what they contained or what they didn't
8 contain. With respect to Mr. Hardman's point, if you'll read
9 the notes, a problem you'll often have is not just that you
10 want to identify the circumstances in which they were taken or
11 the circumstances of the author, but what in fact notes may or
12 may not mean. And without the person who wrote them present
13 or without -- the parties had the right to ask for depositions
14 of numerous people and had they really -- had they wanted to
15 find out the author of those notes they could have sought more
16 depositions. We made a good-faith effort to determine whose
17 notes they were. The burden is not on the applicant to
18 identify the author of every piece of -- every document that's
19 produced in a discovery request. I think you've ruled and
20 perhaps --

21 MR. HARDMAN: But Your Honor, TDS does have the
22 burden of proof in this case and when a party has the burden
23 of proof and there's a failure to introduce evidence that may
24 be adverse, it may be, and I'm not saying at this point that
25 it will be, that it may be appropriate to draw adverse

1 inferences from their failure to produce it. Now, in terms of
2 the depositions, obviously we could have noticed everyone and
3 his brother for a deposition to ask them are these your notes
4 and -- but for efficiency and other reasons we went to counsel
5 and said look it, after, after by the way we asked several
6 witnesses at their depositions if they were their notes and --

7 JUDGE GONZALEZ: Well, Mr. Hardman, I'm placed in a
8 position of I cannot question the good faith of their efforts
9 to make a determination as to who in fact was the author of
10 these notes. I mean, I have to accept their word that every
11 effort was made to identify the note taker, that -- I mean,
12 I'm required. There's nothing else I can do but do that. But
13 since they are now written by an anonymous person, I will --
14 my feeling is that they can only be admitted for a very, very
15 limited purpose. I don't see any problem with asking a
16 witness if they can identify the author from the handwriting.
17 I mean, if you -- I assume that's already been done, but if
18 you would -- but if the, the person conducting the cross-
19 examination would like to ask again I don't see any harm with
20 that particular question. But if the answer is that the
21 person is still unknown, then I think it can only be used as
22 an aid to memory. I don't see how else it can be used.

23 MR. SCHNEIDER: And to be clear on that, Your Honor,
24 we offer up every witness to be read to and asked questions
25 about each one of these documents and if Mr. Hardman wants to

1 attempt to get them to acknowledge -- or not -- in one of
2 these statements they'll be there to do that.

3 JUDGE GONZALEZ: I think that's the way we'll have
4 to proceed. So, I don't know whether that particular document
5 has been offered.

6 MR. WEBER: It has not been yet.

7 JUDGE GONZALEZ: Well, then when it is offered I
8 will make -- if in fact we do receive it, it will be received
9 with -- for a limited purpose only.

10 MR. WEBER: I trust you're making the limited
11 purpose as sought out in the stipulations.

12 JUDGE GONZALEZ: Right. Exactly.

13 MR. WEBER: At this point the Bureau was ready to
14 offer for identification purposes Exhibit 75 which is a 39-
15 page compilation of notes.

16 JUDGE GONZALEZ: All right. It's identified.

17 (Whereupon, the document referred to as
18 Bureau's Exhibit No. 75 was marked for
19 identification.)

20 MR. WEBER: I offer this into evidence.

21 JUDGE GONZALEZ: Are there any objections?

22 MR. EMMONS: Subject to the stipulation, Your Honor,
23 no objection.

24 MR. SCHNEIDER: Subject -- I agree, Your Honor,
25 subject to the stipulation, no objection.

1 JUDGE GONZALEZ: It's received.

2 (Whereupon, the document referred to as
3 Bureau's Exhibit No. 75 was received into
4 evidence.)

5 MR. WEBER: Next the Bureau for identification
6 purposes offers Exhibit 76 which is an eight-page compilation
7 of handwritten notes.

8 JUDGE GONZALEZ: It's identified.

9 (Whereupon, the document referred to as
10 Bureau's Exhibit No. 76 was marked for
11 identification.)

12 MR. WEBER: I offer this into evidence.

13 JUDGE GONZALEZ: Are there any objections?

14 MR. EMMONS: Subject to the stipulation, Your Honor,
15 no objection.

16 JUDGE GONZALEZ: As I've indicated earlier, I am --
17 I gather you have no objection, Mr. Schneider.

18 MR. SCHNEIDER: Subject to the stipulation, no, sir.

19 JUDGE GONZALEZ: Again, I am, I am receiving it for
20 the limited purpose set forth in the stipulation.

21 (Whereupon, the document referred to as
22 Bureau's Exhibit No. 76 was received into
23 evidence.)

24 MR. WEBER: For identification purposes, the Bureau
25 offers Exhibit 77 which is a 20-page compilation of

1 handwritten notes.

2 JUDGE GONZALEZ: It's identified.

3 (Whereupon, the document referred to as
4 Bureau's Exhibit No. 77 was marked for
5 identification.)

6 MR. WEBER: I offer this into evidence.

7 JUDGE GONZALEZ: Are there any objections?

8 MR. EMMONS: Subject to the stipulation, Your Honor,
9 no objection.

10 MR. SCHNEIDER: Subject to the stipulation, Your
11 Honor, no objection.

12 JUDGE GONZALEZ: It's received.

13 (Whereupon, the document referred to as
14 Bureau's Exhibit No. 77 was received into
15 evidence.)

16 MR. WEBER: For identification purposes, the Bureau
17 offers Exhibit 78 which is a 13-page compilation of hand-
18 written notes.

19 JUDGE GONZALEZ: It's identified.

20 (Whereupon, the document referred to as
21 Bureau's Exhibit No. 78 was marked for
22 identification.)

23 MR. WEBER: I offer this into evidence.

24 JUDGE GONZALEZ: Are there any objections?

25 MR. EMMONS: Subject to the stipulation, Your Honor,

1 no objection.

2 MR. SCHNEIDER: Subject to the stipulation, Your
3 Honor, no objection.

4 JUDGE GONZALEZ: Those, those documents are received
5 subject to the stipulation indicated earlier.

6 (Whereupon, the document referred to as
7 Bureau's Exhibit No. 78 was received into
8 evidence.)

9 MR. WEBER: The Bureau will not be offering Exhibit
10 79 as it has already been admitted into evidence. The Bureau
11 will offer Exhibit 80 which is a one-page document and is a
12 letter dated November 16th, 1990.

13 JUDGE GONZALEZ: It's identified.

14 (Whereupon, the document referred to as
15 Bureau's Exhibit No. 80 was marked for
16 identification.)

17 MR. WEBER: I offer this into evidence.

18 JUDGE GONZALEZ: Are there any objections?

19 MR. EMMONS: No objection, Your Honor.

20 MR. SCHNEIDER: No objections, Your Honor.

21 JUDGE GONZALEZ: It's received.

22 (Whereupon, the document referred to as
23 Bureau's Exhibit No. 80 was received into
24 evidence.)

25 MR. WEBER: I believe that concludes, that concludes

1 the Bureau's -- exhibits.

2 JUDGE GONZALEZ: Well, I note the time is 10 of
3 12:00. Would the parties like to break for lunch now before
4 we take the remaining exhibits?

5 MR. HARDMAN: That would be fine, Your Honor. I
6 appreciate that.

7 JUDGE GONZALEZ: All right. Well then why don't we
8 meet then at 1 o'clock, just a little over an hour?

9 MR. HARDMAN: Is that enough time?

10 MR. EMMONS: Is that enough time?

11 JUDGE GONZALEZ: Well, that's right, I'm sorry, I
12 remember now.

13 MR. HARDMAN: If it would not impose on the court
14 too much, if we could make that 1:30 that would be --

15 JUDGE GONZALEZ: That's fine. That's fine. If
16 that's the time you need, that's fine with me. All right.

17 MR. HARDMAN: Thank you, Your Honor.

18 JUDGE GONZALEZ: Sure.

19 (Whereupon, off the record.)

20 (Whereupon, back on the record.)

21 JUDGE GONZALEZ: I guess we're all present and
22 accounted for. We'll go back on the record. Is there
23 anything anyone wants to bring up before we hear from the last
24 group? All right, Mr. Hardman?

25 MR. HARDMAN: Thank you, Your Honor. The Wisconsin

1 8 Settlement Group would ask that Exhibit GRP-01 be marked for
2 identification which consists of a five-page statement
3 entitled Declaration of H. Donald Nelson.

4 JUDGE GONZALEZ: All right. It's identified.

5 (Whereupon, the document referred to as
6 Exhibit No. GRP-01 was marked for
7 identification.)

8 MR. HARDMAN: Now, as I understand it, this document
9 is included without the first page as a TDS Exhibit.

10 JUDGE GONZALEZ: Without the first page?

11 MR. HARDMAN: I may have mispoken. The second one
12 is without the first page. This is a declaration dated August
13 13, 1990.

14 JUDGE GONZALEZ: Right.

15 MR. EMMONS: Your Honor, this is identical. These
16 five pages are identical to the TDS-USCC Exhibit 1, tab G,
17 pages 48-52.

18 MR. HARDMAN: In that case, I will withdraw the
19 exhibit, Your Honor.

20 JUDGE GONZALEZ: All right. That has been
21 withdrawn.

22 (Whereupon, the document referred to as
23 Exhibit No. GRP-01 was withdrawn.)

24 MR. HARDMAN: Next I would ask that Exhibit GRP-02
25 be marked for identification. The document consists of eight

1 pages and is entitled Testimony of H. Donald Nelson; it's our
2 Exhibit 15.

3 JUDGE GONZALEZ: All right.

4 MR. EMMONS: This one, Your Honor, is identical to
5 TDS-USCC Exhibit Two, tab T.

6 MR. HARDMAN: In that case, I will withdraw the
7 exhibit, Your Honor.

8 JUDGE GONZALEZ: All right.

9 MR. HARDMAN: Next I would ask to be marked for
10 identification Exhibit GRP-03, an 18-page exhibit entitled
11 Statement of H. Donald Nelson, captioned USCC Exhibit Number
12 1.

13 MR. EMMONS: This one, Your Honor, is contained in
14 its entirety in TDS-USCC Exhibit Two tab U.

15 MR. HARDMAN: In that case, I will withdraw it, Your
16 Honor.

17 JUDGE GONZALEZ: All right. That has been
18 withdrawn.

19 MR. HARDMAN: Next I would ask to be marked for
20 identification Exhibit GRP-04, a four-page document captioned
21 Testimony of Richard W. Goehring, LaStar Exhibit 16.

22 JUDGE GONZALEZ: I'm sorry? Is it four pages?
23 Number 16?

24 MR. HARDMAN: Exhibit --

25 JUDGE GONZALEZ: I'm sorry. I'm looking at it. I

1 see. Four pages.

2 MR. EMMONS: This exhibit, Your Honor, is already in
3 evidence as TDS-USCC Exhibit Seven tab E.

4 MR. HARDMAN: I'll withdraw it, Your Honor.

5 JUDGE GONZALEZ: Okay. That is withdrawn as well.

6 MR. HARDMAN: I would ask to be marked for
7 identification as Exhibit GRP-05. It is a three-page document
8 captioned Testimony of Mark Krohse, LaStar Exhibit 18.

9 JUDGE GONZALEZ: It's identified.

10 (Whereupon, the document referred to as
11 Exhibit No. GRP-05 was marked for
12 identification.)

13 MR. EMMONS: This one, Your Honor, was submitted
14 already as TDS-USCC Exhibit Eight tab O.

15 MR. HARDMAN: I will withdraw it, Your Honor.

16 JUDGE GONZALEZ: All right.

17 (Whereupon, the document referred to as
18 Exhibit No. GRP-05 was withdrawn.)

19 MR. EMMONS: Off the record for a moment, Your
20 Honor?

21 JUDGE GONZALEZ: Sure. Off the record.

22 (Whereupon, off the record.)

23 (Whereupon, on the record.)

24 JUDGE GONZALEZ: We're back on the record now.
25 You may continue, Mr. Hardman.

1 MR. HARDMAN: Thank you. I would ask to be marked
2 for identification Exhibit GRP-06, a fifteen-page document
3 consisting of excerpts from the 10-K Report for Telephone and
4 Data Systems for the fiscal year ending December 31, 1984.
5 The excerpts are the portions of the 10-K in which the
6 cellular matters are discussed in the explanatory part of the
7 exhibit.

8 And I should also add that the same will be true of
9 each of the excerpts from the 10-K report that will be offered
10 in Exhibits 7, 8, 9 and 10 -- actually, through Exhibit 15.

11 JUDGE GONZALEZ: All right. It is identified.

12 (Whereupon, the document referred to as
13 Exhibit No. GRP-06 was marked for
14 identification.)

15 JUDGE GONZALEZ: Do you offer it?

16 MR. HARDMAN: I would offer that into evidence now.

17 MR. EMMONS: Excuse me, Your Honor --

18 JUDGE GONZALEZ: Well, why don't we just go ahead
19 and identify 6, and then we'll identify 7. All right? Are
20 there any objections to receiving 6?

21 MR. EMMONS: Yes, Your Honor. And we will have the
22 same objection to 7 through 15 as well. And I suspect Mr.
23 Hardman will have the same argument on each of them, and --

24 JUDGE GONZALEZ: Well, do you want to just go ahead
25 and identify all of those, then?

1 MR. HARDMAN: That probably would be better, Your
2 Honor.

3 JUDGE GONZALEZ: All right. Well, why don't you go
4 on to 7 and describe that document for us?

5 MR. HARDMAN: All right. Exhibit GRP-07 is a 6-page
6 document consisting of excerpts from the form 10-K report
7 filed by the Telephone and Data Systems before the Securities
8 and Exchange Commission for the fiscal year ended December 31,
9 1985.

10 JUDGE GONZALEZ: Okay. That's identified.

11 (Whereupon, the document referred to as
12 Exhibit No. GRP-07 was marked for
13 identification.)

14 MR. HARDMAN: Exhibit GRP-8 is a 9-page exhibit
15 consisting of excerpts from the form 10-K report filed by the
16 Telephone and Data Systems, Inc., with the Securities and
17 Exchange Commission for the fiscal year ended December 31,
18 1986.

19 JUDGE GONZALEZ: Okay. That's identified.

20 (Whereupon, the document referred to as
21 Exhibit No. GRP-08 was marked for
22 identification.)

23 MR. HARDMAN: Exhibit GRP-09 is an 8-page document
24 consisting of excerpts from the form 10-K report filed by the
25 Telephone and Data Systems, Inc., with the Securities and

1 Exchange Commission for the fiscal year ended December 31,
2 1987.

3 JUDGE GONZALEZ: All right. That's identified.

4 (Whereupon, the document referred to as
5 Exhibit No. GRP-09 was marked for
6 identification.)

7 MR. HARDMAN: Exhibit GRP-10 is a 12-page exhibit
8 consisting of excerpts from the form 10-K report filed by the
9 Telephone and Data Systems, Inc., with the Securities and
10 Exchange Commission for the fiscal year ended December 31,
11 1988, I believe -- my copy that I'm looking at is a little
12 fuzzy. Yes, it's 1988.

13 JUDGE GONZALEZ: All right. That's identified.

14 (Whereupon, the document referred to as
15 Exhibit No. GRP-10 was marked for
16 identification.)

17 MR. HARDMAN: Exhibit GRP-11 is a 14-page exhibit
18 consisting of excerpts from the form 10-K report filed by
19 Telephone and Data Systems, Inc., with the Securities and
20 Exchange Commission for the fiscal year ended December 31,
21 1989.

22 JUDGE GONZALEZ: Identified.

23 (Whereupon, the document referred to as
24 Exhibit No. GRP-11 was marked for
25 identification.)

1 MR. HARDMAN: Exhibit GRP-12 is a 16-page exhibit, a
2 document consisting of excerpts from the form 10-K report
3 filed by the Telephone and Data Systems, Inc., with the
4 Securities and Exchange Commission for the fiscal year ended
5 December 31, 1990.

6 JUDGE GONZALEZ: All right. It's identified.

7 (Whereupon, the document referred to as
8 Exhibit No. GRP-12 was marked for
9 identification.)

10 MR. HARDMAN: Exhibit GRP-13 is an 18-page exhibit
11 consisting of excerpts from the form 10-K report filed by
12 Telephone and Data Systems, Inc., with the Securities and
13 Exchange Commission for the fiscal year ended December 31,
14 1991.

15 JUDGE GONZALEZ: All right. That's identified as
16 well.

17 (Whereupon, the document referred to as
18 Exhibit No. GRP-13 was marked for
19 identification.)

20 MR. HARDMAN: Exhibit GRP-14 is an 18-page exhibit -
21 - a document, I'm sorry -- consisting of excerpts from the
22 form 10-K report filed by Telephone and Data Systems, Inc.,
23 with the Securities and Exchange Commission for the fiscal
24 year ended December 31, 1992.

25 JUDGE GONZALEZ: That's identified.

1 (Whereupon, the document referred to as
2 Exhibit No. GRP-14 was marked for
3 identification.)

4 MR. HARDMAN: And Exhibit GRP-15 is a 43-page
5 exhibit -- a document, I'm sorry -- consisting of excerpts
6 from the form 10-K report filed by the Telephone and Data
7 Systems, Inc., with the Securities and Exchange Commission for
8 the fiscal year ended December 31, 1993.

9 JUDGE GONZALEZ: It's identified.

10 (Whereupon, the document referred to as
11 Exhibit No. GRP-15 was marked for
12 identification.)

13 MR. HARDMAN: And I would move those exhibits into
14 evidence at this time.

15 JUDGE GONZALEZ: I understand there an objection?

16 MR. EMMONS: Objection to all of them, Your Honor,
17 on grounds of relevancy.

18 JUDGE GONZALEZ: Would you respond to the relevance
19 objection?

20 MR. HARDMAN: Yes, Your Honor. First of all, the --
21 by way of explanation, the reason that all of the pages are in
22 there for each excerpt is to have the complete portion of the
23 report that discusses cellular telephone, because I did not
24 want to have any question that some of the parts of the
25 discussion were taken out of context.

1 So I don't claim that all of the pages are
2 necessarily relevant, but for completeness sake, I felt that
3 the relevant portions needed to be accompanied by the complete
4 excerpt of the report dealing with that general subject
5 matter.

6 Secondly, the witness' proffer by TDS and USCC will
7 be questioned on matters contained in the exhibits and
8 therefore additional evidence will be adduced in part because
9 of these documents through the witnesses. And they are
10 necessary for some foundation on those questions, which
11 obviously have yet to be asked.

12 However, the major -- there are two major reasons
13 that the excerpts are relevant. First of all, as described in
14 there -- and I am not attempting to characterize it, but
15 simply in terms of the subject matter, it describes in these
16 statements a program that TDS had for systematically going out
17 and finding and making investments and applications in rural
18 service areas and other markets: NSA's where TDS was not
19 eligible to apply by reason of not having a presence.

20 The company had a program in which it systematically
21 went around and tried to find partners in that circumstance.
22 The facts pertaining to that program will be adduced; which
23 will, I believe, cast doubt on the explanations of some of the
24 witnesses' testimony here as to the assertion that this was
25 really just a stub-end. That the investment in LaStar was

1 just some stub-ended part of a deal that was entered into for
2 some other purpose.

3 And that facts related to this program will cast
4 doubt on testimony as to the motivation of the company to
5 either control or not control LaStar, and therefore this
6 testimony as to the credibility of this testimony as to what
7 it knew, why it did what it did, and those related issues.
8 That's on the substantive part.

9 On the other side, assuming that Your Honor finds
10 that some lack of candor or misrepresentations have occurred,
11 it is certainly relevant in determining the nature of the
12 sanctions that may be imposed, to understand the commercial
13 context in which the violations occurred.

14 Now, one of the points that has been, you know, that
15 the Commission has said in its policy statement, that is
16 relevant, is to understand the commercial benefit to the
17 company from the alleged violation.

18 And what we have here is a situation in which the
19 evidence will show that TDS made these kinds of deals on a
20 regular and continuous basis, and so far only one has been
21 designated for a hearing.

22 But as a consequence of those deals, it has wound up
23 with majority control of a number of markets in which it was
24 not eligible to apply for to begin with.

25 So there is a great -- it has reaped great financial

1 advantage from that program; and that will help Your Honor
2 determine -- assuming that there is a violation found -- that
3 will help Your Honor determine the appropriate remedy that
4 should be ordered.

5 JUDGE GONZALEZ: Mr. Emmons?

6 MR. EMMONS: Yes, Your Honor. Thank you. I have a
7 response to that. Mr. Hardman started by noting that
8 witnesses will be questioned about matters in these corporate
9 annual reports, and I think that we ought to be a little more
10 specific about what it is the witnesses are going to be
11 questioned about, because Mr. Hardman has disclosed that in
12 his February 7, 1995, exhibit exchange letter, wherein he
13 observed that his client, the settlement group, would call Mr.
14 Carlson and Mr. Nelson as witnesses if they weren't already
15 presented as direct witnesses by TDS and USCC, which of course
16 we are doing.

17 Mr. Hardman noted in his letter that Mr. Carlson
18 will be questioned about TDS policy and actions concerning
19 minority interest investment in cellular applications and that
20 Mr. Nelson will be questioned about USCC policies and actions
21 concerning the acquisition, development and operation of
22 cellular telephone systems. I have quoted that.

23 Now, it is clear what Mr. Hardman is intending to do
24 therefore is to broaden the scope of this hearing beyond the
25 LaStar proceedings into all other cellular markets where TDS

1 and US Cellular have interests of one kind or another.

2 That, Your Honor, is flatly contrary to not one but
3 two rulings that you have already made in this case: To the
4 effect that this hearing is going to be limited to conduct in
5 LaStar and will not consider conduct in any other market.

6 And I wanted to refresh Your Honor's recollection,
7 if I may, about those rulings. The first came when one of the
8 applicants, or then it would be a petitioner to intervene, the
9 name is Portland Cell, filed a petition to intervene in this
10 proceeding shortly after the designation order and said that
11 the reason that its participation as a party would be useful
12 to the Commission was that it had knowledge about what it
13 called USCC's pattern of activities in circumstances similar
14 to those in LaStar.

15 And of course that petition was opposed; and Your
16 Honor in a ruling that was issued or released on March 25,
17 1994, held in unmistakable language that although Port Cell
18 would be admitted as an intervenor, its participation will be
19 limited to an examination of the conduct of USCC in the LaStar
20 proceeding.

21 And you went on to say that Port Cell's alleged
22 knowledge of USCC's conduct in other, quote, similar
23 proceedings which Port Cell appears to find relevant will not
24 be considered.

25 And so you made it very clear, Your Honor, that the

1 scope of this proceeding is limited to conduct in LaStar and
2 there won't be an examination of conduct in other markets
3 where US Cellular has a presence. Now, that was only the
4 first of two rulings in which you --

5 JUDGE GONZALEZ: I am aware of my rulings. Is it
6 your intention to probe into other markets through these
7 witnesses?

8 MR. HARDMAN: Not directly. I mean, what happened
9 in other markets except from the standpoint of the program
10 that the company put in place, which was important enough for
11 it to tout it to its investors repeatedly in its 10-K reports,
12 that it was going around doing this, and the policies that the
13 TDS had in place constitute, among other things, knowledge
14 about things related to control of enterprises which goes
15 directly to the credibility of the testimony of these
16 witnesses.

17 We have a series of documents here in which all of
18 the parties line up and say hey, we didn't know there was
19 anything wrong; we had no reason to believe there was anything
20 improper about that.

21 And what the evidence about this program will show
22 was that: Number one, that's not true. Number two, their
23 explanation for the circumstances of LaStar and that it's just
24 some stub-ended deal that we didn't pay any attention to will
25 also be demonstrated to be not true.

1 So this goes directly to the credibility of
2 testimony that TDS itself has introduced as part of its direct
3 case, which has nothing to do with the rulings that were made
4 earlier that Port Cell could not drag in its conduct, or TDS'
5 conduct, in its dispute in this proceeding.

6 This goes directly, Your Honor, to the issue of the
7 credibility and weight of the evidence that TDS itself has
8 introduced in this proceeding about what it did, what it knew,
9 and why it did what it did.

10 MR. EMMONS: Your Honor, in the second of the
11 rulings that you made, that very point was put squarely before
12 you by another petitioner in discovery who sought evidence of
13 complaints by anybody against US Cellular of improper conduct
14 in other markets.

15 And a reason given by that petitioner why that
16 evidence would be relevant is that if there is similar
17 evidence in other markets, then it, quote, becomes less
18 believable than any inaccuracies in the New Orleans MSA or
19 unintentional mistakes; such a pattern would tend to show
20 purposeful deceit, end quote.

21 That was the motion asking for an expansion of the
22 evidence into other markets, and your ruling on that one was
23 exactly as your ruling on the first one.

24 You said, quote, the presiding Judge has made it
25 clear in earlier rulings that this proceeding will be limited

1 to an examination of the conduct of the USCC and TDS in the
2 so-called LaStar proceeding.

3 And it went on to say that you would not entertain
4 evidence of conduct in other markets. So I think those
5 rulings are dispositive.

6 Beyond that, Your Honor, there is nothing in the
7 bill of particulars that gives to TDS and USCC notice that its
8 conduct in other markets is at issue in this proceeding.

9 And indeed, the only notice on the subject that we
10 have at all is the notice that your two rulings have given us,
11 which is that conduct in other markets will not be considered.

12 JUDGE GONZALEZ: I was just going to ask Mr. Weber
13 if he had wanted to --

14 MR. WEBER: Well, I was just going to ask if I could
15 make an inquiry of Mr. Hardman.

16 MR. HARDMAN: Off the record?

17 MR. WEBER: No. On the record.

18 MR. HARDMAN: Okay. Sure.

19 MR. WEBER: Fine. I just wanted to ask him a
20 question. By offering these, is it your goal to state that
21 they've done wrong in other markets and therefore it's more
22 likely that they've done wrong here?

23 MR. HARDMAN: No. Absolutely not.

24 MR. WEBER: Or is it just to show that they know
25 what control is?

1 MR. HARDMAN: Among other things, I -- you have
2 anticipated a point I was going to make and that is that it's
3 not being offered to show any improper conduct or pattern of
4 improper conduct that tends to cast doubt on what they did in
5 the New Orleans market.

6 What it is intended to do is, if I could shorthand
7 it this way, is to provide the foundation for impeachment of
8 their testimony, of their exculpatory testimony and their
9 protestations that, gee, they never knew there was anything
10 wrong with what they were doing and that their motivation was,
11 you know, that they had no reason to be deceitful.

12 JUDGE GONZALEZ: So, in other words, your intention
13 is to use the documents pretty much for impeachment purposes,
14 is that correct?

15 MR. HARDMAN: Yes. I think that's a fair --

16 MR. EMMONS: Your Honor --

17 MR. HARDMAN: -- plus, Your Honor, I also pointed
18 out that the information is relevant at the remedial stage in
19 determining if this --

20 JUDGE GONZALEZ: Oh, if in fact there is an adverse
21 finding. Of course, my concern initially is, number one, I am
22 not familiar with the documents. And number two, I gather
23 that there is a wealth of information contained therein.

24 MR. SCHNEIDER: Your Honor, I might have one other
25 point on that, too.

1 JUDGE GONZALEZ: Yes.

2 MR. SCHNEIDER: One, despite Mr. Hardman's efforts
3 to include all of the information that's relevant to cellular,
4 most of the, certain of these documents, there was disclosure.
5 There was disclosure concerning the LaStar litigation, in
6 particular, descriptions of LaStar. And that for whatever
7 reason, that hasn't made its way into the offer of proof.
8 Second --

9 JUDGE GONZALEZ: Well, do you consider that
10 relevant?

11 MR. SCHNEIDER: Well, actually, we don't consider
12 any of this relevant.

13 JUDGE GONZALEZ: No, no. But I mean, do you feel
14 that would be a meaningful inclusion, or is that something
15 that could --

16 MR. EMMONS: Well, actually, if these were admitted,
17 Your Honor, to which we strongly object -- if they were
18 admitted we would certainly want to include the portions that
19 mention LaStar.

20 JUDGE GONZALEZ: Well, my concern is that the
21 documents are extensive and I can only assume they contain an
22 awful lot of information -- I gather that much of which would
23 not really be pertinent to our purposes.

24 And I guess my concern is that I don't want to see
25 any of this coming into proposed findings that haven't been

1 | gone over in open hearing.

2 | MR. EMMONS: Your Honor, I can --

3 | JUDGE GONZALEZ: So, I -- perhaps the best way to
4 | handle it is to permit the documents in for the specific
5 | purpose of an aid in cross examination of the witnesses. And
6 | I will just have to entertain objections to each question
7 | that's asked.

8 | In other words, if counsel for TDS or USCC feels
9 | that were are straying from -- or, at least the question is
10 | seeking information which is not pertinent to the issues that
11 | we have before us today -- well, then they will raise an
12 | appropriate objection. And I will entertain that objection at
13 | that time.

14 | MR. EMMONS: We could do it that way, Your Honor.
15 | But I can assure you that there are going to be repeated
16 | objections -- if I read Mr. Hardman's letter correctly, and
17 | from what I have heard him say here, there will be repeated
18 | objections.

19 | JUDGE GONZALEZ: Well, hopefully, in ruling on a
20 | couple of those objections we will set the parameters and we
21 | won't have too many. I guess there will be a standard --

22 | MR. SCHNEIDER: Your Honor, are you withholding your
23 | ruling on the admissability of these until such time as their
24 | particular -- I mean, the proper method of impeachment as I
25 | understand it is to present somebody with something and ask